

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Charley Doe,)
Plaintiff)
v.) Case No. 1:22-CV-00226-AJ
West Alton Marina, LLC, et al.,)
Defendants.)

)

**DEFENDANTS' JOINT SURREPLY TO PLAINTIFF'S REPLY TO OBJECTION TO
MOTION TO PROCEED UNDER PSEUDONYM**

Defendants West Alton Marina, LLC, Brian Fortier, Dierdre Tibbetts, and John Murray jointly file a surreply to Plaintiff's reply to the objection to James Doe's motion to proceed under pseudonym.¹ Defendants understand that surreplies are not encouraged but there is a recent First Circuit case to which Defendants seek to draw the Court's attention.

In *Does 1-3 v. Mills*, No. 22-1435, 2022 WL 2526989 (July 7, 2022), the First Circuit evaluated the likelihood of success of a motion to proceed under pseudonym in the context of a motion for preliminary injunction. *Id.* at *3. In doing so, the First Circuit recognized that there is “strong presumption against the use of pseudonyms in civil litigation” that may only be overcome by certain “exceptional cases.” *Id.* In determining if that case was “exceptional,” the First Circuit used the Third Circuit’s multi-factor test from *Doe v. Megless*, 654 F.3d 404, 408 (3d Cir. 2011). *Id.* at *4-5.

As discussed more thoroughly in the joint objection, Plaintiff has failed to demonstrate any exceptional circumstances under the *Megless* test that would justify permitting Doe to proceed

¹ Defendant Allyson Shea has taken no position on Plaintiff's Motion to Proceed Under Pseudonym at this time and, accordingly, does not join this surreply.

under pseudonym.

Additionally, Defendants find it notable that counsel for Charley Doe does not deny seeking media attention for the present civil suits. Instead, he directs the Court's attention to prior media attention in August 2021 when the arrests were made. That misdirection ignores the flurry of news articles that have been published since the onset of civil litigation in May and June of 2022. Those news articles focus the attention on the Marina and its owners.²

CONCLUSION

For the foregoing reasons, Plaintiff's motion to proceed under pseudonym should be denied.

Respectfully submitted,

West Alton Marina, LLC
Brian Fortier
By Their Attorneys:
SHAHEEN & GORDON, P.A.

Dated: August 1, 2022

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² See, e.g., West Alton Marina owner, former manager ask that some lawsuits be moved to federal court, WMUR (June 14, 2022), <https://www.wmur.com/article/west-alton-marina-lawsuits-federal-court/40278166#>; West Alton Marina remains silent, bans media from property, Laconia Daily Sun (May 26, 2022), https://www.laconiadailysun.com/news/local/west-alton-marina-remains-silent-bans-media-from-property/article_e48a0c90-dd1e-11ec-96c3-6b8de461daf1.html; Marina plaintiffs seek \$6M in assets to be used to pay potential damages, Concord Monitor (May 23, 2022), [https://www.concordmonitor.com/Marina-suit-plaintiffs-seek-attachments-of-\\$6m-46485403](https://www.concordmonitor.com/Marina-suit-plaintiffs-seek-attachments-of-$6m-46485403); Former Lakes Region marina employees say their manager sexually exploited them, bragged of ties to Gilford police, NHPR (May 17, 2022), <https://www.nhpr.org/nh-news/2022-05-17/former-lakes-region-marina-employees-lawsuit-allege-manager-sexual-assault-harassment>; New allegations made against owner, manager of West Alton Marina, WMUR (May 13, 2022), <https://www.wmur.com/article/new-allegations-owner-manager-west-alton-marina/39996519>.

Dated: August 1, 2022

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic filing (NEF).

/s/ Olivia F. Bensinger
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